



ENVIRONMENTAL PROTECTION AGENCY

[EPA-R05-OPPT-2014-0360] FRL-9922-56-Region-5

TSCA Sections 402(a), 402(c), and 406(b) Program Authorization

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; final approval.

SUMMARY: On May 19, 2014, the Bois Forte Band of Chippewa (Bois Forte) submitted a complete application under section 404 of the Toxic Substances Control Act (TSCA) requesting authorization to administer and enforce the requirements for TSCA sections 402(a), 402(c), and 406(b) in accordance with the provisions of TSCA for trust lands located within the exterior boundaries of the reservation. Notice of the Bois Forte application, a solicitation for public comment regarding the application and background information supporting the application was published in the **Federal Register** of June 23, 2014. Today's notice announces the approval of Bois Forte's application, and the authorization of the Bois Forte Band of Chippewa's TSCA sections 402(a), 402(c) and 406(b) programs, to apply on the Bois Forte reservation, effective November 13, 2014, in lieu of the corresponding federal programs.

DATES: Lead-based paint activities and renovation program authorization was granted to the Bois Forte Band of Chippewa effective on November 13, 2014.

FOR FURTHER INFORMATION CONTACT: Emma Avant, Land and Chemicals Division (LCD), Toxics Section, U.S. Environmental Protection Agency, 77 W. Jackson Boulevard, Chicago, IL 60604; telephone number: (312) 886-7899; e-mail address: avant.emma@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to Title IV of TSCA, Lead Exposure Reduction, 15 U.S.C. 2681-2692, and regulations promulgated thereunder, States and Tribes that choose to apply for authorization of a lead-based paint activities program (TSCA Section 402(a) and 40 CFR part 745, Subpart L) and a renovation program (TSCA Sections 402(c) and 406(b) and 40 CFR part 745, Subpart E) must submit a complete application to the appropriate Regional EPA office for review. Complete, final applications will be subject to a public comment period, and reviewed by EPA within 180 days of receipt. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the federal program, and will provide for adequate enforcement. As determined by EPA's review and assessment, the Bois Forte application successfully demonstrated that the Tribe's lead-based paint activities and renovation programs achieve the protectiveness and enforcement criteria, and have otherwise satisfied the statutory criteria required for federal authorization. Furthermore, no public comments were received, during or following the public comment period, regarding any aspect of the Bois Forte application. EPA announced solicitation for public comment regarding the application in the **Federal Register** of June 23, 2014 (79 FR 35540) (FRL-9912-59-Region 5: EPA-R05-OPPT-2014-0360).

II. Federal Overfilling

Section 404(b) of TSCA makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of the Bois Forte Lead Program to the extent that such requirement is consistent with federal law.

III. Withdrawal of Authorization

Pursuant to TSCA section 404 (c), 15 U.S.C. 2684(c), the Administrator may withdraw a State or Tribal program authorization, after notice and opportunity for corrective action, if the program is not being administered or enforced in compliance with standards, regulations and other requirements established under the authorization. The procedures EPA will follow for the withdrawal of an authorization are found at 40 CFR 745.324(i).

IV. Regulatory Assessment Requirements

Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities, renovation, and pre-renovation education program applications are informal adjudications, not rules. Therefore, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- does not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L.104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to the requirements of Section 12 (d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This action does have tribal implications as specified by Executive Order 13175 (FR 67249, November 9, 2000). Although this action is not a regulatory, legislative or policy action, and although this action will not impose substantial direct costs on tribal governments or preempt tribal law, this action may be considered an “other” action as included in the definition of “Policies that have tribal implications” in Section 1 of Executive Order 13175. In the process that lead to this action, EPA adhered to the criteria in Section 3, as applicable, in Executive Order 13175.

List of Subjects

Environmental Protection, Hazardous Substances, Lead, Renovation Notification, Reporting and Recordkeeping requirements.

Dated: January 15, 2015.

Susan Hedman,
Regional Administrator, Region 5.

6560-50-P

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